

Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.622(b),)
Table of Allotments,)
Digital Television Broadcast Stations.)
(Green Bay, Wisconsin))

MM Docket No. 01-334
RM-10343

To: Chief, Allocations Branch

**JOINT REPLY COMMENTS OF
ACE TV, INC. AND CBS BROADCASTING, INC.
AND AGREEMENT FOR RESOLUTION OF CONFLICTING PROPOSALS**

Ace TV, Inc. ("Ace"), licensee of WACY(TV), Appleton, Wisconsin, and CBS Broadcasting, Inc. ("CBS"), licensee of WFRV-TV, Green Bay, Wisconsin, hereby jointly submit these Comments in the captioned rule making proceeding. In response to a Petition for Rule Making filed by CBS, the Commission issued a Notice of Proposed Rule Making ("NPRM") to substitute Channel 39 for WFRV-TV's assigned DTV Channel 56. Ace filed a Counterproposal alternately proposing substitution of Channel 39 for WACY-TV's assigned DTV Channel 59.¹ In the interim, however, Ace has located and confirmed its ability to use Channel 27 for WACY(TV)'s digital operations. Accordingly, in order to expeditiously resolve this proceeding in a manner acceptable to both parties, the parties hereby jointly request that Channel 27 be substituted for WACY-TV's assigned DTV channel and that Channel 39 be substituted for WFRV-TV's assigned DTV channel. If this substitute allotment is made, Ace's

¹ In a separate pleading, CBS is responding to another Comment filed in connection with its rulemaking proposal.

counterproposal can be dismissed, and both parties can be granted new DTV allotments. This resolution of this proceeding is in the public interest as it will permit both parties to obtain a digital channel in the core band.


As set forth in the attached Engineering Statement prepared by Donald L. Markley, P.E. of D.L. Markley & Associates, Channel 27 can successfully be used by WACY-DT with its currently allocated power and a modified antenna pattern. *See* Exhibit A hereto. Moreover, the proposed substitution of Channel 27 for WACY-TV's assigned DTV channel will comply with the principal community coverage requirements of Section 73.625(a) as well as the *de minimis* interference criterion of Section 73.623(c) of the Commission's rules. While grant of this proposal will result in a minimal amount of increased interference to WKOW-TV, Madison, Wisconsin, and to WCMV(TV), Cadillac, Michigan, in each case, the interference to these stations is within acceptable levels. *See*, Exhibit A.

For the foregoing reasons, both Ace and CBS respectfully request that the Commission substitute Channel 27 for WACY(TV)'s assigned DTV Channel 59 at Appleton, Wisconsin, and Channel 39 for WFRV-TV's assigned DTV Channel 56 at Green Bay, Wisconsin. Both Ace and CBS commit to filing any necessary construction permit applications for their respective new channels and to implementing the channel changes if these proposals are granted.

Respectfully submitted,

ACE TV, INC.

By:



David D. Oxenford
Veronica D. McLaughlin

SHAW PITTMAN LLP
2300 N Street, NW
Washington, DC 20037-1128
(202) 663-8000

Its Attorneys

CBS BROADCASTING, INC.

By:


Raymond A. White
Assistant General Counsel

CBS BROADCASTING, INC.
600 New Hampshire Avenue, NW
Suite 1200
Washington, DC 20037

Dated: February 8, 2002

Exhibit A

ENGINEERING STATEMENT

ENGINEERING STATEMENT

The following engineering statement and attached exhibits have been prepared for **Ace TV, Inc.**, licensee of television broadcast station WACY at Appleton, Wisconsin, and are in support of their reply comments and counter proposal in the Notice Of Proposed Rule Making, Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Green Bay, Wisconsin), MM Docket No. 01-334, RM-10343.

In the above identified item, CBS Broadcasting, Inc. ("CBS") proposed that the digital table of allotments be modified as follows:

	Present	Proposed
Green Bay, Wisconsin	23, 41, *42 51, 56	23,39,41 *42, 51

The claimed purpose of the change is to remove the DTV allocation for WFRV-TV at Green Bay from channel 56, which is outside of the future core television spectrum and replace it with channel 39. Their petition demonstrated that such an allocation change could be made consistent with the *de minimus* interference criteria contained in the Rules and Regulations and would eliminate the need for WFRV-TV to construct two different DTV facilities as the transition is made into the core spectrum.

Ace TV, Inc. ("WACY") agreed that the reasons given for the proposed channel change are reasonable. However, the allocation for WACY-DT is channel 59, also outside of the core spectrum. Therefore, WACY offered as a counter proposal that the Table of Allotments for Digital Television Broadcast Stations be modified as follows:

	Present	Proposed
Appleton, Wisconsin	59	39

Channel 39 will also work for WACY within the *de minimus* interference criteria and would eliminate the need for two DTV facilities to be constructed during the transition period. The change would also allow for a significant power increase for WACY to maximize their DTV service area.

WACY realizes that this raised the issue of determining which of the licensees should be preferred in obtaining the desirable channel change. To attempt to eliminate such a conflict, a search has been completed of the NTSC and DTV Tables of Allocation. It has been determined that an alternative channel exists that could be used by WACY with their allocated power although with an alternative antenna pattern.

As an alternative counter proposal, WACY proposes that Section 73.622(b), Table of allotments, Digital Television Broadcast Stations, be modified in the following manner:

	Present	Proposed
Appleton, Wisconsin	59	27
Green Bay, Wisconsin	23, 41, *42 51, 56	23, 39, 41 *42, 51

WACY agrees to modify the antenna pattern for their proposed channel 27 DTV allocation as shown on the attached exhibits. The effective radiated power and height above average terrain for the proposed channel would remain unchanged from the existing allocation.

Channel 27 can be allocated to Appleton at the existing WACY site fully in accordance with the *de minimus* criteria. The greatest interference would be caused to WKOW-TV in Madison, Wisconsin. As shown by the attached exhibits, the new interference to WKOW-TV would be to a total population of 15,940. The percentage of the WKOW-TV service that would receive interference would be increased to 9.00% from the existing value of 7.45%. Therefore, the new interference would be less than 2.0% and the total would remain less than 10%.

New interference would also be caused to WCMV in Cadillac, Michigan. With the proposed WACY-DT on channel 27, the total interference to WCMV would be only 1.06%. Therefore, it is apparent that the interference to WCMV is well within the accepted criteria.

In summary, it is requested that channel 27 be allocated to Appleton, Wisconsin for WACY-DT. The alternative allocation of 27 to Appleton would permit two allocations to be made without conflict and would remove the allocations for both stations from channels outside of the future core.

The preceding statement and attached exhibits have been prepared by me or under my direction and are true and correct to the best of my knowledge and belief.

/s/ Donald L. Markley

Donald L. Markley, P.E.

February 7, 2002



Exhibit No.

1

Date **04 Feb 2002**
Call Letters **WACY-DT** Channel **27**
Location **Appleton, WI**
Customer **Ace TV, Inc.**
Antenna Type **TFU-24DSC-R C170**

TABULATION OF AZIMUTH PATTERNAzimuth Pattern Drawing # **TFU-C170**

Angle	Field	ERP (kW)	ERP (dBk)
0	0.940	252.7	24.03
10	0.854	208.6	23.19
20	0.733	153.7	21.87
30	0.588	98.9	19.95
40	0.437	54.6	17.37
50	0.302	26.1	14.16
60	0.218	13.6	11.33
70	0.207	12.3	10.88
80	0.232	15.4	11.87
90	0.245	17.2	12.35
100	0.232	15.4	11.87
110	0.207	12.3	10.88
120	0.218	13.6	11.33
130	0.302	26.1	14.16
140	0.437	54.6	17.37
150	0.588	98.9	19.95
160	0.733	153.7	21.87
170	0.854	208.6	23.19
180	0.940	252.7	24.03
190	0.987	278.6	24.45
200	1.000	286.0	24.56
210	0.988	279.2	24.46
220	0.963	265.2	24.24
230	0.936	250.6	23.99
240	0.917	240.5	23.81
250	0.905	234.2	23.70
260	0.900	231.7	23.65
270	0.899	231.1	23.64
280	0.900	231.7	23.65
290	0.905	234.2	23.70
300	0.917	240.5	23.81
310	0.936	250.6	23.99
320	0.963	265.2	24.24
330	0.988	279.2	24.46
340	1.000	286.0	24.56
350	0.987	278.6	24.45

Maxima

Angle	Field	ERP (kW)	ERP (dBk)
90	0.245	17.2	12.35
199	1.000	286.0	24.56
341	1.000	286.0	24.56

Minima

Angle	Field	ERP (kW)	ERP (dBk)
66	0.204	11.9	10.76
114	0.204	11.9	10.76
270	0.899	231.1	23.64

Remarks:



Exhibit No.

Date
Call Letters
Location
Customer
Antenna Type

04 Feb 2002
WACY-DT
Appleton, WI
Ace TV, Inc.
TFU-24DSC-R C170

Channel 27

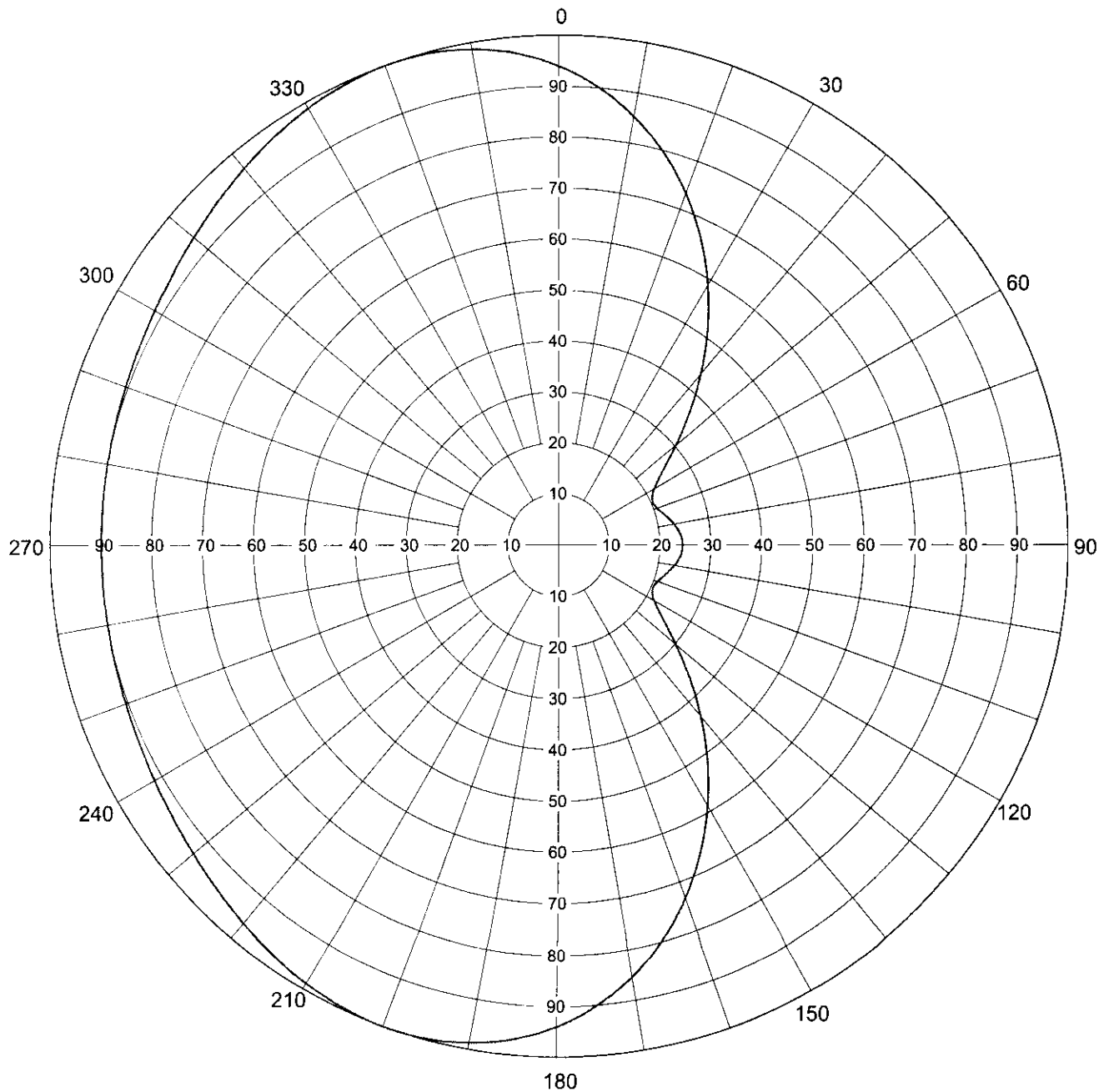
AZIMUTH PATTERN

RMS Gain at Main Lobe
Calculated / Measured

1.70 (2.30 dB)
Calculated

Frequency
Drawing #

551 MHz
TFU-C170



Remarks:

INCOMING INTERFERENCE TO WKOW-TV FROM OTHER STATIONS
AND CONSTRUCTION PERMITS WITH THE PROPOSED WACY-DT

WKOWTV.C (27+) Madison, WI
TV Incoming Interference Study
Signal Resolution: 1.5 km
Consider NTSC Taboo: Yes
KWX error points are considered to
be interference free coverage.
of radials computed for contours: 72
Contours calculated using 8 radial HAAT.
LR Profile Spacing Increment: 0.1 km
Interference considered within the
reference station's noise limited contour.
Threshold for reception: 63.053

Study Date: 2/1/02
TV Database Date: 01-08-02

Population Database: 2000 US Census (PL)

Percentages calculated using a baseline population of 1,031,699.

Stations which cause interference:

Call Letters	H Units	Population	%	Area (sq. km)
KFXA-D.C (27)	0	16742	1.623	728.56
WCCU.C (27-)	0	0	0.000	2.03
WCIU-D.C (27)	0	24891	2.413	518.24
WQEC.A (27+)	0	7	0.001	2.03
WQRF-D.A (42)	0	913	0.088	73.19
WHWC-D.C (27)	0	959	0.093	99.61
AP430 (28Z)	0	36389	3.527	759.02
KFXA-D (27)	0	11859	1.149	183.93
WCIUTV-D (27)	0	11144	1.080	252.90
WQRF-TV-D (42)	0	191	0.019	8.13
WHWCTV-D (27)	0	0	0.000	1.99
WTMJTV-D (28)	0	149	0.014	10.08
WACY-DT (27)	0	34420	3.336	1514.77

Masking Summary:

Call Letters	Total Interference		Unique Interference	
	Population	%	Population	%
KFXA-D.C (27)	16742	1.623	3467	0.336
WCCU.C (27-)	0	0.000	0	0.000
WCIU-D.C (27)	24891	2.413	11858	1.149
WQEC.A (27+)	7	0.001	0	0.000
WQRF-D.A (42)	913	0.088	67	0.006
WHWC-D.C (27)	959	0.093	135	0.013
AP430 (28Z)	36389	3.527	25977	2.518
KFXA-D (27)	11859	1.149	0	0.000
WCIUTV-D (27)	11144	1.080	0	0.000
WQRF-TV-D (42)	191	0.019	0	0.000
WHWCTV-D (27)	0	0.000	0	0.000

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WTMJTV-D (28)	149	0.014	0	0.000
WACY-DT (27)	34420	3.336	15940	1.545

Stations considered which do not cause interference:

AP381 (29-)
 WCCU (27-)
 WCCU.C (27-)
 WQEC (27+)
 WIFR-D.C (41)
 WCMV (27Z)
 WMTV-D.C (19)
 WHA-DT.C (20)
 WKOW-D (26)
 WKOW-D.C (26)
 WTMJ-D (28)
 WIFR-D (41)
 WMTV-D (19)
 WHATV-D (20)
 WKOWTV-D (26)
 WHWCTV-D (27)

Call Letters	City	State	Dist	Bear
KFXA-D.C (27)	Cedar Rapids	IA	235.4	243.8
AP381 (29-)	Dubuque	IA	116.7	238.7
WCCU (27-)	Urbana	IL	333.3	155.6
WCCU.C (27-)	Urbana	IL	333.1	155.6
WCIU-D.C (27)	Chicago	IL	203.7	129.3
WQEC.A (27+)	Quincy	IL	372.4	204.0
WQEC (27+)	Quincy	IL	372.4	204.0
WIFR-D.C (41)	Rockford	IL	89.5	160.4
WQRF-D.A (42)	Rockford	IL	90.3	160.2
WCMV (27Z)	Cadillac	MI	359.3	69.0
WMTV-D.C (19)	Madison	WI	4.0	98.1
WHA-DT.C (20)	Madison	WI	0.0	0.0
WKOW-D (26)	Madison	WI	0.0	0.0
WKOW-D.C (26)	Madison	WI	0.0	0.0
WHWC-D.C (27)	Menomonie	WI	289.4	320.7
AP430 (28Z)	Sheboygan	WI	116.1	65.3
WTMJ-D (28)	Milwaukee	WI	133.1	87.7
KFXA-D (27)	CEDAR RAPIDS	IA	235.4	243.8
WCIUTV-D (27)	CHICAGO	IL	203.7	129.3
WIFR-D (41)	FREEPORT	IL	89.5	160.4
WQRF-TV-D (42)	ROCKFORD	IL	90.3	160.2
WMTV-D (19)	MADISON	WI	4.0	98.1
WHATV-D (20)	MADISON	WI	0.0	0.0
WKOWTV-D (26)	MADISON	WI	0.0	0.0
WHWCTV-D (27)	MENOMONIE	WI	289.4	320.7
WTMJTV-D (28)	MILWAUKEE	WI	133.1	87.7
WACY-DT (27)	GREEN BAY	WI	191.4	40.4

Totals for WKOWTV.C (27+)

Calculation Area Population:	1,045,016	(22845.1 sq. km)
Not Affected by Terrain Loss:	1,031,699	(22404.1 sq. km)
Total NTSC Interference:	36,396	(763.1 sq. km)
DTV Only Interference:	56,415	(2176.8 sq. km)
Total DTV Interference:	66,834	(2535.0 sq. km)
Interfered Population:	92,811	(2939.9 sq. km)
Interference Free:	938,888	(19464.2 sq. km)
Percent Interference:	9.00		
Terrain Blocked Population:	13,317	(441.0 sq. km)
Contour Area Population:	1,043,602		

INCOMING INTERFERENCE TO WKOW-TV FROM OTHER STATIONS
AND CONSTRUCTION PERMITS WITHOUT THE PROPOSED WACY-DT

WKOWTV.C (27+) Madison, WI
TV Incoming Interference Study
Signal Resolution: 1.5 km
Consider NTSC Taboo: Yes
KWX error points are considered to
be interference free coverage.
of radials computed for contours: 72
Contours calculated using 8 radial HAAT.
LR Profile Spacing Increment: 0.1 km
Interference considered within the
reference station's noise limited contour.
Threshold for reception: 63.053

Study Date: 2/1/02
TV Database Date: 01-08-02

Population Database: 2000 US Census (PL)

Percentages calculated using a baseline population of 1,031,699.

Stations which cause interference:

Call Letters	H Units	Population	%	Area (sq. km)
KFXA-D.C (27)	0	16742	1.623	728.56
WCCU.C (27-)	0	0	0.000	2.03
WCIU-D.C (27)	0	24891	2.413	518.24
WQEC.A (27+)	0	7	0.001	2.03
WQRF-D.A (42)	0	913	0.088	73.19
WHWC-D.C (27)	0	959	0.093	99.61
AP430 (28Z)	0	36389	3.527	759.02
KFXA-D (27)	0	11859	1.149	183.93
WCIUTV-D (27)	0	11144	1.080	252.90
WQRFTV-D (42)	0	191	0.019	8.13
WHWCTV-D (27)	0	0	0.000	1.99
WTMJTV-D (28)	0	149	0.014	10.08

Masking Summary:

Call Letters	Total Interference		Unique Interference	
	Population	%	Population	%
KFXA-D.C (27)	16742	1.623	3687	0.357
WCCU.C (27-)	0	0.000	0	0.000
WCIU-D.C (27)	24891	2.413	12049	1.168
WQEC.A (27+)	7	0.001	0	0.000
WQRF-D.A (42)	913	0.088	67	0.006
WHWC-D.C (27)	959	0.093	740	0.072
AP430 (28Z)	36389	3.527	35397	3.431
KFXA-D (27)	11859	1.149	0	0.000
WCIUTV-D (27)	11144	1.080	0	0.000
WQRFTV-D (42)	191	0.019	0	0.000
WHWCTV-D (27)	0	0.000	0	0.000
WTMJTV-D (28)	149	0.014	0	0.000

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Stations considered which do not cause interference:

AP381 (29-)
WCCU (27-)
WCCU.C (27-)
WQEC (27+)
WIFR-D.C (41)
WCMV (27Z)
WMTV-D.C (19)
WHA-DT.C (20)
WKOW-D (26)
WKOW-D.C (26)
WTMJ-D (28)
WIFR-D (41)
WMTV-D (19)
WHATV-D (20)
WKOWTV-D (26)
WHWCTV-D (27)

Stations which were not considered:

WACY-DT (27)

Call Letters	City	State	Dist	Bear
KFXA-D.C (27)	Cedar Rapids	IA	235.4	243.8
AP381 (29-)	Dubuque	IA	116.7	238.7
WCCU (27-)	Urbana	IL	333.3	155.6
WCCU.C (27-)	Urbana	IL	333.1	155.6
WCIU-D.C (27)	Chicago	IL	203.7	129.3
WQEC.A (27+)	Quincy	IL	372.4	204.0
WQEC (27+)	Quincy	IL	372.4	204.0
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WQRF-D.A (42)	Rockford	IL	90.3	160.2
WCMV (27Z)	Cadillac	MI	359.3	69.0
WMTV-D.C (19)	Madison	WI	4.0	98.1
WHA-DT.C (20)	Madison	WI	0.0	0.0
WKOW-D (26)	Madison	WI	0.0	0.0
WKOW-D.C (26)	Madison	WI	0.0	0.0
WHWC-D.C (27)	Menomonie	WI	289.4	320.7
AP430 (28Z)	Sheboygan	WI	116.1	65.3
WTMJ-D (28)	Milwaukee	WI	133.1	87.7
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WCIUTV-D (27)	CHICAGO	IL	203.7	129.3
WIFR-D (41)	FREEPORT	IL	89.5	160.4
WQRF-TV-D (42)	ROCKFORD	IL	90.3	160.2
WMTV-D (19)	MADISON	WI	4.0	98.1
WHATV-D (20)	MADISON	WI	0.0	0.0
WKOWTV-D (26)	MADISON	WI	0.0	0.0
WHWCTV-D (27)	MENOMONIE	WI	289.4	320.7
WTMJTV-D (28)	MILWAUKEE	WI	133.1	87.7
WACY-DT (27)	GREEN BAY	WI	191.4	40.4

Totals for WKOWTV.C (27+)

Calculation Area Population:	1,045,016	(22845.1 sq. km)
Not Affected by Terrain Loss:	1,031,699	(22404.1 sq. km)
Total NTSC Interference:	36,396	(763.1 sq. km)
DTV Only Interference:	40,475	(1184.7 sq. km)
Total DTV Interference:	41,474	(1247.1 sq. km)
Interfered Population:	76,871	(1947.8 sq. km)
Interference Free:	954,828	(20456.3 sq. km)

Percent Interference:	7.45
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Terrain Blocked Population:	13,317	(441.0 sq. km)
Contour Area Population:	1,043,602	

CERTIFICATE OF SERVICE

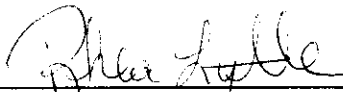
I, Rhea Lytle, hereby certify that I have on this 8th day of February, 2002 caused a copy of the foregoing "**JOINT COMMENTS OF ACE TV, INC. AND CBS BROADCASTING, INC.**" to be served by first class U.S. mail, postage prepaid, upon the following:

Barbara A. Kreisman, Chief*
Federal Communications Commission
Mass Media Bureau
Video Services Division
445 Twelfth Street, S.W., Room 3-A266
Washington, D.C. 20554

Pam Blumenthal*
Federal Communications Commission
Mass Media Bureau
445 Twelfth Street, S.W., Room 3-A262
Washington, D.C. 20554

Raymond A. White, Esq.
Assistant General Counsel
CBS Broadcasting, Inc.
600 New Hampshire Avenue, N.W.
Suite 1200
Washington, D.C. 20037

Earnest T. Sanchez, Esq.
Sanchez Law Firm
2000 L Street, N.W.
Suite 200
Washington, D.C. 20036



Rhea Lytle

*Via Hand Delivery